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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/724,016	11/28/2000	Heinz Focke	FOCKE11	7235

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EXAMINER

TAWFIK, SAMEH

ART UNIT PAPER NUMBER

3721

DATE MAILED: 02/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/724,016

Applicant(s)

FOCKE ET AL.

Examiner

Sameh H. Tawfik

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-14 and 29-44 is/are pending in the application.
- 4a) Of the above claim(s) 32-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-14 and 29-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Newly submitted claims 32-44 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the new added claims 32-44 are combination of the sub-combination of the originally filed claims 10-14, the combination does not require to have the step of fixedly maintaining the tabs in the permanent sealing station of the folding and sealing apparatus, the tabs being permanently sealed in the region of tab overlap by full surface sealing, the sub-combination has separate utility such as the step of fixedly maintaining the tabs in the permanent sealing station of the folding and sealing apparatus, the tabs being permanently sealed in the region of tab overlap by full surface sealing.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 32-44 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Specification***

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. For example "process for producing hinge-LID boxes for cigarettes".

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 10, 14, 15, and 29-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Mattei et al. (4,887,408).

Mattei discloses a process for producing a dimensionally stable pack made of cardboard comprising the steps of providing a folding and sealing apparatus for folding and sealing the pack (Fig. 2); providing the pack with an outer wrapper having folding tabs (via flaps 61, 63, 9, and 10), the outer wrapper made of sealable film, see for example (Figs. 1 and 2); folding the tabs of the outer wrapper into a region of tab overlap in a folding station of the folding and sealing apparatus (Fig. 2); temporarily maintaining the tabs in the region of tab overlap by tacking or by tack connection (claim 1, step (d); via first heat seal means); transporting the pack to a permanent sealing station (via 2<sup>nd</sup> sealing station 57), and fixedly maintaining the tabs in the permanent sealing station of the folding and sealing apparatus, the tabs being permanently sealed in the region of tab overlap by full surface sealing (claim 1, step (f); via second heat seal means); and further folding the at least one set of the folding tabs into a region of tab overlap (Figs. 1 and 3).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-13 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mattei et al. (4,887,408) in view of McDaniel (4,256,526).

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Mattei does not disclose that the maintaining the tabs in the region of tab overlap is by small surface area spot sealing or by linear sealing. However, Daniel discloses that sealing by using small surface area spot sealing or by linear sealing (Fig. 8) and by narrow linear sealing (Fig. 6; via T-shaped adhesive 56 and 57) to apply hot melt adhesive in a pattern in both parallel to and perpendicular to the direction of substrate movement (column 2, lines 52-55).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Mattei's method by having the step of maintaining the tabs in the region of tab overlap is by small surface area spot sealing or by linear sealing, as suggested by Daniel, in order to apply hot melt adhesive in a pattern in both parallel to and perpendicular to the direction of substrate movement.

Regarding claim 13: Mattei discloses the step of heat treating (via 45 and 57) the outer wrapper (Fig. 2). Mattei does not disclose that the wrapper is a film that shrinks when subjected to heat treatment. However, it would have been obvious to one having ordinary skill in the art to provide a shrink wrapper, as a matter of engineering design choice, since the examiner takes an official notice that such kind of shrinking wrapper is old, well known, and available in the art, see for example (US. Patent 5,899,048; Figs. 3 and 4).

Regarding claims 29 and 30: the step of temporarily maintaining the tabs in the region of tab overlap occurs in the folding station (Fig. 2; via folding station 45).

Regarding claim 31: the step of providing the pack with an outer wrapper is by folding a blank of film, the blank forming the outer wrapper around the pack in a tubular shape (Fig. 2).

***Response to Arguments***

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Applicant's arguments filed 12/23/2002 have been fully considered but they are not persuasive.

Applicants argue in page 9 of the arguments that none of the cited references disclose double sealing process, first temporarily maintaining the folded tabs, and second distant of the first step fixedly maintaining the tabs. The examiner believes that Mattei discloses two different sealing stations the first one 45 for pre-folding and the second sealing station 57 for finishing the work.

Applicants argue in page 10 of the arguments that Mattei's reference fails to disclose the present claims as the concept of pre-sealing and main sealing in the region of different assemblies is neither taught nor suggested in the reference. The examiner believes that Mattei's reference clearly discloses the pre-sealing station 45 and main sealing 57 to finish the work of packing the packs, the examiner believes the claims are not narrow enough to overcome Mattei's reference, claim 10 broadly referring to permanent sealing station, the examiner see this is clearly anticipated by Mattei's reference as sealing station 57.

Applicants further argue in page 10 of the arguments that Mattei's does not disclose two distinctly different and locationally distinct temporary and then permanent sealing step, a pre-sealing step and a main sealing step in not shown. The examiner believes that Mattei's reference clearly discloses two different sealing stations for two different steps and the second sealing station to finish sealing the back.

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***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is (703) 308-2809. The examiner can normally be reached on Monday - Friday from 8:00 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rada, Rinaldi can be reached on (703) 308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 308-7769 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

ST.  
February 4, 2003



**EUGENE KIM  
PRIMARY EXAMINER**